

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
To Revise Its Electric Marginal Costs, Revenue
Allocation, and Rate Design.

(U 39 M)

Application 04-06-024
(Filed June 17, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING EXPEDITED SCHEDULE FOR FILING OF ANY
APPLICATION FOR REHEARING OF DECISION (D.) 05-07-041
AND RESPONSES THERETO**

Decision (D.) 05-07-041 was adopted by the Commission at the meeting of July 21, 2005, and mailed to the parties on July 26, 2005. In that decision, the Commission finds that the San Francisco Bay Area Rapid Transit District (BART) and SierraPine Ltd. (SierraPine) are exempt from certain costs associated with Pacific Gas and Electric Company's Energy Recovery Bonds (ERBs). In particular, BART is exempt from ERB Charges assessed by PG&E pursuant to the Commission's Financing Order (D.04-11-015) on all federal preference power and local publicly owned utility power purchased by and delivered to BART under Public Utilities Code Section 701.8. SierraPine is exempt from ERB Charges collected under or as part of the Direct Access Cost Responsibility Surcharge. The decision involves ERB Charges and matters related to certain provisions in Senate Bill 772 ("SB 772") of the Regular Session of 2003-2004 (Stats. 2004, ch. 46).

D.05-07-041 construes, applies, implements, and interprets the provisions of Article 5.6 (commencing with Section 848) of Chapter 4 of SB 772, which modified Public Utilities Code Section 1731, and added Public Utilities Code

Section 1769. Public Utilities Code Section 1731(d) requires that as a prerequisite for filing a cause of action “in any court,” an application for rehearing of a Commission decision construing, applying, or implementing the provisions of Article 5.6 (commencing with Section 848) of Chapter 4 must be filed within ten days after the date of issuance of the decision. (Pub. Util. Code, § 1731, subd. (d).) Accordingly, applications for rehearing of D.05-07-041 are due ten days after the issuance of this decision.¹ Applications for rehearing of these decisions must therefore be filed by August 5, 2005.

Section 1731(d) also requires the Commission to “issue its decision and order on rehearing within 20 days after the filing of that application.” In order to issue a decision or order on rehearing of D.05-07-041 within the applicable timeframe, the Commission will need to take up consideration of any applications for rehearing at its regularly scheduled meeting on August 25, 2005.

Pursuant to Rule 86.2 of the Commission’s Rules of Practice and Procedure, a response to an application for rehearing may be filed no later than 15 days after the day the application for rehearing is filed. Consequently, under the expedited schedule for the filing of applications for rehearing, responses would not be due until August 22, 2005, only three days before the August 25, 2005 Commission meeting. Therefore, so that the Commission may have sufficient time to consider responses to any applications for rehearing that may be filed, the time for filing responses must be shortened. Although the Commission is not obligated to withhold a decision on an application for

¹ In the decision, the Commission specifically noted the applicability of § 1731, and in particular the 10-day time for filing applications for rehearing.

rehearing to allow time for a response to be filed,² the time for filing a response to any application for rehearing shall be shortened to August 12, 2005.

Accordingly, any party planning to file a response in this matter shall file and serve the response on or before August 12, 2005. Any response shall be served by electronic mail on those parties on the service list who have provided an e-mail address, and by first class mail or other expeditious mode of delivery to those who have not provided an e-mail address. In addition, any responses shall also be electronically served on the following Commission staff: Helen W. Yee (yee@cpuc.ca.gov).

Therefore, **IT IS RULED** that:

1. Any party filing an application for rehearing of Decision (D.) 05-07-041 shall file the application on or before August 5, 2005, and shall serve the application in the same manner as specified for responses.

² See Rule 86.2 of the Commission's Rules of Practice and Procedure.

2. The time for filing a response to any applications for rehearing of D.05-07-041 shall be shortened. Any party filing responses to such applications for rehearing shall file the responses on or before August 12, 2005, and shall serve the responses in the manner specified above.

Dated July 26, 2005, at San Francisco, California.

/s/ BURTON W. MATTSON

Burton W. Mattson
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Expedited Schedule for Filing of any Application for Rehearing of Decision (D.) 05-07-041 and Responses Thereto on all parties of record in this proceeding or their attorneys of record.

Dated July 26, 2005, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.